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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,534	02/05/2002	Alan F Savicki	492.222	3998

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EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT PAPER NUMBER

3727

DATE MAILED: 10/06/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/049,534

Applicant(s)

SAVICKI, ALAN F

Examiner

Robin A. Hylton

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8, 15-23, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrington (US 5,007,143) in view of Perlman (US 3,578,239).

Herrington teaches the claimed bag extra for third and fourth side seals. It is noted the method claims do not provide specific method steps. The claims are treated as product-by-process claims which do not further structurally limit the claimed invention.

Perlman teaches it is known to provide a bag with multiple side seals, more specifically two such side seals along each side wall.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of multiple side seals to the bag of Herrington in view of Perlman. Doing so provides a more secure sealing arrangement at the bag side walls.

Regarding claims 5,6,20, and 21, Herrington as modified teaches the claimed bag except for fifth and sixth side seals. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an additional side seal along each bag side wall, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

3. Claims 9-11 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 1 and 16 above, and further in view of Diplock (US 6,190,043).

Herrington as modified teaches the claimed bag except is silent regarding the seam construction.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to since the examiner takes Official Notice of the equivalence of heat sealing, ultrasonic sealing,

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and adhesive sealing for their use in the bag art and the selection of any of these known equivalents to provide a seal between two bag side walls would be within the level of ordinary skill in the art.

Diplock additionally teaches the use of adhesives or hot sealing for creating bag side seals.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use any of the known sealing methods for creating the side seals of Herrington. Doing so allows for expedient manufacturing of the bag as desired.

4. Claims 12 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 1 and 16 above, and further in view of Stolmeier (US 5,871,281).

Herrington as modified teaches the claimed bag except for U-channel fastening strips.

Stolmeier teaches a bag having U-channel fastening strips.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the fastening strip of Herrington for the U-channel strip taught by Stolmeier. Doing so is an obvious matter of design choice of known rib and groove equivalents for closing a bag.

5. Claims 13 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 1 and 16 above, and further in view of Laguerre (US 3,806,998).

Herrington as modified teaches the claimed bag except for arrowhead fastening strips.

Laguerre teaches a bag having arrowhead fastening strips.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the fastening strip of Herrington for the arrowhead strips taught by Laguerre. Doing so is an obvious matter of design choice of known rib and groove equivalents for closing a bag.

6. Claims 14 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 1 and 16 above, and further in view of Porchia et al. (US 5,664,299).

Herrington as modified teaches the claimed bag except profile fastening strips

Porchia teaches a bag having profile fastening strips.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the fastening strip of Herrington for the profile strips taught by Porchia. Doing so is an obvious matter of design choice of known rib and groove equivalents for closing a bag.

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Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bags having features similar to that disclosed and/or claimed are cited for their disclosures.

8. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9302 or (703) 872-9303 for after final amendments. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

9. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 872-_____ on the date shown below.

Typed or printed name of person signing this certificate

Signature _____

Date _____

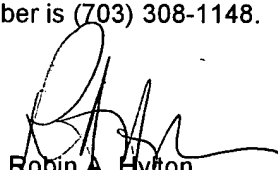
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner works a flexible schedule, but can normally be reached on Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (703) 308-2572.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Bembry at (703) 306-4005.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

RAH
September 29, 2003


Robin A. Hylton
Primary Examiner
GAU 3727